IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

Richard Cooey, et al.,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	Case No. 2:04-CV-01156
	:	GLF MRA
Ted Strickland, et al.,	:	
	:	
Defendants.	:	

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DEPOSITION

of Julie Walburn, taken before me, Julieanna Hennebert, a Notary Public in and for the State of Ohio, at the offices of Attorney General of Ohio, Capital Crimes Unit, 150 East Gay Street, Floor 16, Columbus, Ohio, on Tuesday, October 6, 2009, at 2:45 p.m.

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On behalf of the Defendants.
- - -

Tuesday Afternoon Session,
October 6, 2009.
- - -

STIPULATIONS

It is stipulated by and among counsel for the respective parties that the deposition of Julie Walburn, a witness called by the Plaintiffs under the applicable Rules of Civil Procedure, may be reduced to writing in stenotypy by the Notary, whose notes thereafter may be transcribed out of the presence of the witness; and that the examination, reading, and signature of the said Julie Walburn to the transcript of her deposition are waived by counsel and the witness; said deposition to have the same force and effect as though signed by the said Julie Walburn.
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JULIE WALBURN

being by me first duly sworn, as hereinafter certified, deposes and says as follows:

EXAMINATION

BY MR. PORTER:

Q. Let me identify myself beginning with my name is Randall Porter. I'm an attorney with the State Public Defender's Office. I will not ask you if Mr. Willie has said anything bad about me, we'll just leave it there.
Ask you your name for the record please.
A. Julie Walburn.
Q. Spell your last name for the court reporter.
A. W-a-l-b-u-r-n?
Q. And your current address? Work address?
A. 770 West Broad Street, Columbus, Ohio 43222.
Q. Have you ever been deposed before?
A. Yes.
Q. Was not in the context of this litigation, is it?
A. No.
Q. Since you've been deposed before you

probably know the rules of depositions, but let me run through them real quick.

First is if you don't understand a question I ask, please ask me to repeat it. Sometimes I think I ask the most articulate questions in the world and everyone else in the room just jaw hits the floor.

And I also have a Southern Ohio accent, which sometimes can be difficult to understand, so please, if you do not understand, let me know.

The court reporter's going to need a positive response. Shaking your head is not a positive response. "Huh-uh," "huh-uh" are not responses either. I know you would not have given those, just a gentle reminder.

If you need to take a break at any point, let us know, we can take a break. Please just let us get through the question that's asked.

And I think with that we'll jump right into the deposition.

Have you done any preparation work for today's deposition?

A. No.

Q. Have you consulted with anyone other than

Mr. Willie?

A. No.

Q. And you're currently employed?

A. Yes.

Q. Where?

A. The Ohio Department of Rehabilitation and Corrections.

Q. And your current position?

A. Communications director.

Q. How long have you held that position?

A. Since September 1 of this year.

Q. Prior to that what position did you hold?

A. I was the Bureau Chief of Internal Audits, Standard Compliance.

Q. The jobs seem to require different skills. Why did you make the transition from one to the other?

A. I don't know that I agree that they require different skills. In my previous job I was the -- I oversaw internal audits, national accreditation of the agency, policy development of the agency.

I was the national spokesperson, I spoke for the agency on a national level in terms of our

accreditation efforts. So I did represent the agency in my previous job.

Q. Prior to that what position did you hold?

A. I was the assistant to the deputy director of prisons.

Q. Here in Ohio?

A. Yes.

Q. How long did you hold that position for?

A. Year and a half.

Q. And your responsibilities?

A. Provide all types of assistance in any matters related to the operation of the prison. Whatever issues the deputy director delegated to me to manage.

Q. Was that Mr.?

A. That was current-Director Collins.

Q. And prior to that position?

A. I was the internal audit administrator in the Bureau of Internal Audits and Standards Compliance.

Q. Prior to that?

A. I was quality assurance director of the Ohio Central School System, which is the school system that the Department of Rehabilitation and

Corrections operates.

Q. Prior to that?

A. I was the warden's assistant at Orient Correctional Institution.

Q. And prior to that?

A. I was an assistant in the Bureau of Internal Audits and Standards Compliance.

Q. What year did you graduate from college?

A. '95.

Q. My understanding is you graduated from Wilmington?

A. Wilmington College, my undergraduate degree. My graduate degree is from Ohio State.

Q. And your undergraduate degree is in what?

A. Criminal justice and social work, with a minor in Poli Sci, political science.

Q. And your graduate degree?

A. Public policy and management.

Q. You did better finding a purpose for a political science degree than I did.

Your current position is again please?

A. Communications director.

Q. What all does that entail?

A. I represent the agency in all

communication issues both internally and externally. I speak for the agency with media partners in any external agencies that have an interest in what we do.

I oversee our public relations program, including reviewing and approving all publications that go out for use in the public. I'm the spokesperson for the Department.

Q. Does your position include developing media strategies?

A. Yes.

Q. And you've only held your position since September of this year; is that correct?

A. Correct.

Q. Prior to adopting -- or, I'm sorry. Prior to taking the current position did you have any contact with issues surrounding executions in the state of Ohio?

A. I had started training with our previous communications director in the spring of this year and actually attended my first execution and represented the agency in August of this year prior to taking my position.

Q. What did your training consist of?

A. My training --

Q. With the prior?

A. Just specific to execution?

Q. Yes.

A. We went over protocol. I spent a day at the Southern Ohio Correctional Facility. Went through an execution rehearsal with the execution team. Met with the on site public information officer. Met with the communications director, went over media issues that had occurred in past executions.

Q. What's the interrelationship between your position and the position of communications director for the specific institution? Didn't you say there was a -- you met in Lucasville with the communications director?

A. The local public information officer.

Q. Yeah, what --

A. Each prison has a public information officer, the warden's assistant serves as the public information officer. They're the inside person at each prison that handles local media issues that may not be global.

So I provide functional supervision over

their work as a public information officer. Those duties specific to their position. Larry Green is that person on site in Lucasville, so I met with him.

Q. With respect to executions at SOCF how do you divide the public relations duty between him and yourself?

A. Since I have assumed this role he serves as a support to me. So I direct the public information functions and he just provides any services that I ask of him during the time that we're there.

So I handle media calls. He prepares the media packet of information that we give to the media when they attend the execution and arrive in the media center. But he does so in my direction. So I would say his relationship is one of support in terms of the execution process.

Q. What's included in the media package?

A. We provide a sheet of the -- that gives the inmate's specifics; what crime he was convicted of, his date of admission to the Department, height and weight upon admission.

We provide a list of witnesses that are attending on behalf of the victim's family and the

inmate's family. We provide a list of the special meal request as well as what will be served for breakfast.

A photo of the execution chamber, our media policy, the execution policy, and a list of executions that have occurred in the state since 1999.

Q. Prior to the efforts to execute Mr. Broom in September of 2009, that would have been the first one on your watch, so to speak? Execution? Since you took the role?

A. I had actually, well, I need to correct an earlier statement. This was my third execution. So I had represented the agency in the execution of Marvallous Keene and Jason Getsy previous to this execution.

Q. Had you, prior to the Broom execution with specifically regard to the Broom execution, had you attended any meetings regarding the execution itself?

A. Of?

Q. Details regarding the execution.

A. Of Romell Broom?

Q. Yes.

A. No.
Q. After you assumed your current position and prior to the Broom execution, I'm just winding my time scope from the prior question, had you attended any specific meetings regarding execution procedures?
A. No.
Q. Had you yourself prior to the Broom execution educated to yourself concerning execution procedures?
A. I've read on the subject, if that's what you're asking.
Q. Yes.
A. Certainly. I mean as far back as college. I mean that's part of my college background was criminal justice is my major.
Q. As actual execution procedures?
A. Certainly I've read as far back as college background on the evolution of the death penalty. And as you know, I went to Wilmington, which is a Quaker school, and participated in the criminal justice program there. So certainly has a -- did some historical look at corrections issues.
Q. Had you done any education of yourself concerning pending lethal injection challenges prior

to the Broom execution?
A. No.
Q. When did you -- were you at OSP at the time of the Broom execution?
A. No. At OSP?
Q. Yes. I'm sorry, at SOCF.
A. Yes.
Q. And when did you report to SOCF?
A. I get there the day prior. So I would assume I got there approximately 2:00 p.m. that day prior.
Q. And what did you do on that day?
A. We conduct our first media briefing at 4:30 the day prior. So when I first get there I report to the Incident Command Center and I become familiar with what has happened while -- since the inmate's arrival that morning.
So I review the timeline and I talk to the people there to determine, try to become informed on all the questions we can anticipate that the media will ask. And then I start taking media calls.
I start getting media calls pretty much that morning prior to an execution. It's routine that I can expect media calls starting at 8:30 or

9:00 o'clock in the morning.
Q. When you say "that morning," do you mean that morning the day prior?
A. The day prior.
Q. Then you did a meeting with the media the day prior to the execution?
A. We do a media briefing at 4:30 for any media who want to attend that day prior. We only had one media representative attend.
Q. So large meeting, huh?
A. Uh-huh.
Q. When you say "we," who was included?
A. Larry Green, the local public information officer, participates in that briefing. Attends with me.
Q. Who's your immediate supervisor?
A. Ernie Moore, the assistant director of the Department.
Q. Did you have any communications with him regarding release of information to the media prior to the day of the execution?
A. Specific to Romell Broom?
Q. Yes.
A. No.

Q. In general?
A. No.
Q. Can you describe your day of work on the day of Romell Broom's efforts to execute him?
A. I stayed overnight in Lucasville, well, in Portsmouth. At 6:00 o'clock in the morning I routinely call the incident commander at the Institution to get an update on how the night went. And we do that every execution because we can anticipate receiving calls as soon as I'll start answering my phone.
So I get a phone briefing and then head into the Institution. I believe I arrived at the Institution at approximately 6:30, somewhere around there. And then we provide -- we do our first media briefing in the media center.
We open the media center that morning. We provide our first media briefing at approximately 7:30.
Q. When you say "we"?
A. Again Larry Green is on site to assist. That morning I believe the media briefing started a little bit late because there was fog. Heavy fog and some of the -- most of the media were driving in so

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they are delayed in getting there, so we waited for them to come.

Q. But how many media members did you have if you can remember?

A. At the time of the actual briefing we probably had six. I know a few of them were delayed and weren't there for the briefing.

Q. And then could you continue on your activities throughout the day?

A. Well, in the morning my job is to stay informed on anything that's going on, take media calls that come in either on my Blackberry or to the office in Columbus that get sent down to me or that come into the Institution.

So in the morning I answer media calls. And I check in with the media center. I believe it's my responsibility to keep them up to date on things that are appropriate to be reported. So I check in on them and keep them informed of our process. So that's what we did.

When we knew we were going to have a delay pending the court, the outcome of the court case, we went down and spoke to the media about that. I had informed the media of that issue.

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So we let them know there would be a delay. And then until approximately probably 12:00 o'clock possibly we were just checking in with the media center keeping them informed of what was going on.

They of course were -- had a lot of questions and then had a lot of downtime. So certainly we wanted to check in on them.

Do various things, I think we had some of the public information team members there escort them outside so they could shoot B roll and shoot footage of the protesters that they don't normally get a chance to do, but they don't usually get allowed to do that but we accommodated that.

The director always stops in the media center before he goes over to the Death House

Q. Let me stop you there for a minute. I asked too broad of a question.

How did you keep yourself informed of the status of the ongoing appeals that morning?

A. I was receiving information through the Incident Command Center. So I received information from at that time the people on site either through the Incident Command Center or through the warden

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that's there who's being kept informed.

So I'm in constant contact with the warden, with the legal staff that's on site. Austin was on site that morning, so Austin Stout kept us informed.

Q. When you say informed, is that face-to-face contact?

A. Yes.

Q. And then at some point you heard that the appeal, last appeal had been denied?

A. Correct.

Q. And you mentioned that the director meets with the media that morning?

A. Prior to every execution he stops into the media center and before he goes over to the Death House and briefly speaks to the media, yes.

Q. What's his purpose of doing that since he already has you doing that, if you know?

A. I just think he believes that he should stop in, greet the media. He usually allows them to ask a broad range of questions. There's been times they've asked about the budget, taken the opportunity to ask about the budget.

So I think he believes that as much as

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possible we need to provide information to the media. So, you know, he's the director of the agency, he's the person in charge of the agency, so he just stops down.

He routinely stops in and sees the victim's family and the offender's family as well.

Q. After you heard the execution's denied can you tell us what you did?

A. We immediately, Larry and I immediately went down to the media center. We knew they would be -- we actually knew Peter Krouse was calling Mr. Sweeney because Peter was telling us he was calling so we knew we would have that information.

But we certainly wanted to make sure they understood we were relaying the information that we had as soon as we had it.

So I immediately got copies of the order, made photocopies, went to the media center to provide them with an update of what was happening then. So that's what we did.

Q. And then after that?

A. We stayed in that area. That's when the director came down and talked with them. Told them that -- what we told them at the time was in general

we assumed since it was an hour delay in the morning stopped the preparation, stopped at 9:00 and the execution was scheduled would for 10:00, we estimated we would be about an hour behind schedule.

So we thought that once we started the -- restarted the preparation, it would take about an hour. So at that time the director left the media center, I remained in the media center with the media representatives.

Q. And once the execution got underway or the pre-execution procedure, depending to whom you're speaking, can you tell us what you did?

A. The media representatives are the first ones escorted over to the Death House. So Larry gets notified on his earpiece that they're ready for us to cross over to the Death House.

We escorted the media representatives over to the Death House, and that's generally five to ten minutes prior to the preparation process starting. So we escorted the media representatives into the Death House.

Immediately thereafter -- and that was for witnesses. There were two pool reporters and two media witnesses that day.

Once we get into the Death House then the victim witnesses are escorted over and then any offender witnesses are escorted over.

So that's what happened next.

Q. And obviously this execution did not go as planned. Did you stay in the Death House until they had, for lack of better term, continued the execution?

A. I was in the Death House with the media representatives until I believe it was Mr. Voorhies stepped out from behind the back area of the Death House and let me know that we would be taking the media representatives out.

So I had Larry escort them back and I -- back over to the media center, and then I remained with the director at that point in the Death House. And we spoke with the victim's family. The director did.

Q. After you spoke with the victim's family?

A. We went directly to the media center.

Q. Who answered the questions at the media center?

A. Director Collins.

Q. Did you answer any yourself?

A. The formal briefing, no. I'm trying to think if I even answered any media questions afterwards. I can't remember that I did. What we did was the director spoke, he did the formal briefing.

Immediately thereafter we always provide an opportunity for the victim's family to speak. The victim's family in this case declined, and we provided an opportunity for the offender's representative to speak, whether that's family or whomever is there. And Ms. Shank did speak.

And immediately thereafter my role was to allow the media representatives to remain in the media center, lot of them stay and file stories, that type of thing, and take care of their logistics.

And then I immediately have to start answering phone calls for media interviews.

Q. In your role with regard to executions are you privy to information that you can't share with the media?

A. Certainly. Yes.

Q. And how do you make a decision on what you can share and what you cannot share?

A. Well, certain things we know are public

information. Certain things are confidential because they relate to victim's issues or those types of things.

Certain things are a matter of public record, and so if it's a matter of public record, it's certainly something we can share with the media.

Some of that we don't share unless we're forced to, out of respect for the inmate's privacy. Those type of things. Some of it's judgment.

Q. To a certain degree you were, as well as a media member in this case, you were a witness to the execution; is that correct?

A. I viewed what other witnesses viewed.

Q. Or the effort to execute.

A. Uh-huh.

Q. The responses you made to the media, were they, some of those responses based upon what you had seen that day?

A. You'll have to clarify your question.

Q. From your perspective in the Death House were you able to see the monitor of the efforts to install the IVs?

A. Correct, yes, I was.

Q. So some of that you would have personally

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seen yourself.
A. I've seen everything that the witnesses saw.
Q. And your responses to some of the media questions, would they have been based upon what you saw as opposed to more general information, for lack of a better term?
A. I very deliberately did not provide any interpretation of anything I saw to the media.
Q. And how exactly do you draw that line?
A. When I was asked pointed questions about what I was seeing on the screen, did you see this, is this what's happening? Said I'm not seeing anything that you're not seeing.
Because I was viewing what was going on with the same eye that they were viewing what was going on. So other than procedural or policy questions, I did not interpret anything that I saw on the screen. Very deliberately.
Q. Someone from the, for lack of a better term, the Chillicothe Gazette, if there is such a thing, calls and asks the question and they haven't been able to see what you've seen, is your response still the same?

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A. It's the role of the pool reporters, that's exactly why we use pool reporters. We have pool reporters there from radio, television, and print. It's their responsibility and they're under agreement with our Department to witness the event and provide their interpretation. That is not my role.
Q. So if someone from the Chillicothe Gazette called you and said how many times did they attempt to insert an IV, you would refer them to one of the pool reporters?
A. No, if that was a matter of record or if it was a factual question that I could answer, we would answer that.
If it was something, if they were asking my opinion, my impression, I would not answer that. The pool reporters would be responsible for that.
If they wanted to know what our procedures are, something like that, I would answer that question.
Q. Let me go back to my hypothetical then.
A. Okay.
Q. If someone asks you how many times they had made an effort to insert an IV, is that something

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you could have answered to someone that wasn't there or you would have referred that to a pool reporter?
A. I didn't get asked that question until probably two days after the event. And we attempted to answer that question.
It wasn't a -- it wasn't in the timeline but I did contact the Institution to see if we were able to answer that question. And the only way that we could provide an answer to that question, I was told that 18 appeared right. A correct number.
That's what I was told when I contacted the Institution. So in that case I didn't provide the number 18, I confirmed that 18 based on what I'm being told by the prison, 18 appeared an accurate number.
Q. The number 18 was suggested to you?
A. From the media rep, yes.
Q. If they had not suggested the number of 18, your response would have been?
A. At that time I did not know. So my response would have been I don't know that information. It wasn't in the timeline.
Generally I -- in an execution my answers are based on what's in the record. What's in the

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public record. The timelines are public record. They are provided to the Associated Press immediately following each execution. They have a standing request.
Q. With respect to the specifics of an execution other than the timeline what else would be in a public record when -- you must have had a lot of fact-specific questions in this particular case.
A. I can't recall anything other than how many times they attempted to insert an IV line. I can't recall anything fact specific that I was asked that wasn't in the timeline.
Or that wasn't in the media briefing sheets that we provide, such as the witnesses, the names of the witnesses and those kind of things.
Q. I know this is only your third execution. Have you ever seen something in the timeline which contradicted your own personal observations?
A. No.
Q. Had you seen anything specific in this case?
A. No.
Q. If you had seen something in this case and it wasn't on the timeline and somebody asked you

about that fact, your response would be?
A. I have a hard time hypothesizing that. It probably all -- I guess I would have to -- that would have to occur for me to know how I would handle it. It really depends on the issue.
Q. At some point during the procedures after the execution can you remember answering a question or providing information regarding Mr. Broom's prior drug usage?
A. Certainly. We were asked that question, yes. I was asked that question.
Q. And your answer was what?
A. I was told while in the Death House that the inmate had claimed to be an IV drug user and then had changed his story. So he had provided conflicting information on whether that was a factor.
Q. And who had you provided that information to?
A. The only person I was talking to in the Death House of our --
MR. SWEENEY: Can we just caution the witness not to use names? She's probably not given that drill.
MR. WILLE: The persons who are

designated as members of the execution team.
A. Right, I'm aware of that. The only person I spoke to in the Death House was Ed Voorhies. I'm aware of that issue.
Q. And did he tell you the source of that information?
A. No, he did not. And Austin, I spoke with Austin as well. When Austin stepped out to speak with Adele Shank.
Q. We've had numerous depositions where the deponents have testified as to various conferences, meetings, discussions, that were occurring that day when the execution wasn't going as planned. Were you privy to any of those discussions?
A. No.
Q. Were you able to hear anything yourself while they were attempting to insert the IVs that day from either Mr. Broom or from the individuals that were trying to insert them?
A. No.
Q. Were you able to hear any of the conversations that were ongoing that morning in the Equipment Room?
A. No.

MR. PORTER: Want to confer for a minute?
(Off the record.)
Q. We've been in depositions all morning or since early morning. It's our understanding that your department issued a press release today concerning --
A. No. That's incorrect. We've not issued a press release.
Q. Made a public statement; is that correct?
A. We've had media calls. We've answered questions by the media but we've not issued a statement. Or a written or a verbal statement.
The Governor's Office issued a statement about the reprieve. But we have not issued -- we've received phone calls and answered questions but that's all that we have done.
Q. Was a statement made to the media today from any source regarding different options that the Department was investigating with respect to future executions?
A. Yes.
Q. And who was the source of that information? Or what department issued that, or do you know?

A. It wasn't an issue. We received calls and we were asked by the media by a few media outlets in conjunction with the Governor's statement and it was in the reprieve that we were looking at backup and alternate lethal injection procedures, what procedures we're actually looking at.
Q. Was there -- you've stated previously -- let me rephrase my question.
You've stated previously that you exercised your discretion at times of what information to provide the media and what information not to provide the media.
A. Uh-huh.
Q. Was there any issue in this case that the information, that information should be provided the media?
A. Was there any issue that it should?
Q. Any issue. Was that a black and white issue of whether the options that were being considered should be provided the media?
A. Was I concerned that I shouldn't provide it? No.
Q. Was that your decision or was that a decision made at a different level?

A. We had discussions -- in discussions we had discussed what information we were prepared to share with the media, and that was something we were prepared to share.
Q. And when you say "we," who was involved in those discussions?
A. Ed Voorhies, Director Collins, and Greg Trout.
Q. And when were those discussions held?
A. Yesterday.
Q. Was there any contemplation of issuing a public statement, for lack -- or media release, for lack of better term, in doing that?
A. No.
Q. So this is some information I could have obtained yesterday if I -- after your meeting if I had just called over and asked for the information?
A. If you were a media outlet, yes.
Q. And I couldn't have done it if I called you as representative of one of the five plaintiffs in this litigation, you wouldn't have shared the information?
A. I would have referred you to someone else who speaks to those kind of people. I speak to

media.
Q. Those kind of people?
A. Yes. Other external people, non-media kind of people. I speak to the media.
Q. When did you become aware of the ongoing study by the Department of Corrections concerning other options?
A. I knew we were looking at what had occurred in Romell Broom's case the day that the issue occurred.
Q. When did you become aware of the information that you dispersed today in response to questions?
A. Yesterday.
MR. PORTER: I have no further questions. I'll defer to Mr. Sweeney.
- - -
EXAMINATION
BY MR. SWEENEY:
Q. Good afternoon, Ms. Walburn, I'm Tim Sweeney, I represent some of the plaintiffs in this case. Thank you for being here today and for your patience.
This meeting yesterday where you learned

about the information I guess that was conveyed today to the reporters, that was Mr. Voorhies, Director Collins, Greg Trout, and yourself in the meeting; is that what happened?
A. Yes.
Q. Was this a prescheduled meeting?
A. No.
Q. How did it come to be that this meeting was convened?
A. I don't know. I was in the office and they asked me to step into the conference room to let me know about something that was probably going to be media -- grab the media's attention.
Q. And who asked to you step in?
A. Director Collins.
Q. Are you physically located in the same building as the director?
A. I'm located -- my office is right next door to his.
Q. So you're physically right there.
A. Uh-huh.
Q. Sort of at the command center of DRC here in Columbus, Ohio.
A. Yes.

Q. Correct?
A. Yes.
Q. Mr. Voorhies, is his office there as well?
A. It's on the same floor.
Q. So the director said Julie or Julia?
A. Just Julie.
Q. Julie, I need you, we're going to have a meeting, we're going to discuss this topic.
A. Yes.
Q. So you came into the conference room.
A. Yes.
Q. So you had no prior notice this was happening?
A. Correct.
Q. And it was you got there, it's a room like this one?
A. Yeah. Similar.
Q. A conference room. They all look alike. But it was the three gentlemen in there?
A. Yes.
Q. And they were already there.
A. Yes.
Q. And joined them.

A. Yes.
Q. Anybody else present?
A. No.
Q. Tell me what happened. Who said what?
A. We just discussed that the Governor was going to issue the reprieve and we needed to be prepared to answer media questions. So we discussed what type of media questions that we thought we could anticipate and what information could be shared.
Q. And how long did this discussion last?
A. Twenty minutes maybe. I mean I'm just guessing.
Q. Was there any discussion during this 20 minutes of what the Department was considering doing in terms of things that might be done as a result of what happened to Mr. Broom on the 15th?
A. Not other than what I have stated publicly.
Q. About what you would have --
A. Not other than what I have stated publicly.
Q. I'm not sure what you have stated publicly. But whatever public statements you have made, have any of those statements -- were any of

those statements made before this meeting you had yesterday with these three --
A. Are you asking -- if you're asking specifically about what options the Department is considering as they examine this issue, I certainly was asked that a number of times prior to yesterday's meeting.
Q. And what had your response been?
A. At that time my answer was the Department is looking at all options. That we're talking about experts in this area and considering all options.
We had not had any other -- we had not provided any other specific information prior to the meeting yesterday.
Q. With respect to the comment you made publicly prior to yesterday, the source of your information was who or what?
A. Well, I mean it depends on what you're asking about. The source of a lot of my information was in the actual occurrence of the incident of what happened with Romell Broom, was the execution timeline and knowledge that I had gained being on site.
If you're asking about the study itself

and what we were doing? I had just known in generalities that we were looking at all options, talking to experts, any number of experts. That's the information that I shared.
Q. And who provided that information to you? Who within the Department? Where did you get your knowledge base?
A. I was working with Ed Voorhies a lot on the issue. I had spoken with the director about it. I had spoken with my supervisor Ernie Moore about it on occasion.
Q. And had you been given any information as to any of the specifics as to what is being considered and was being considered?
A. I was not involved in those discussions whatsoever.
Q. So the level of information provided to you at least up until yesterday was we're looking at these things, we're consulting with people, we're evaluating options, was in essence the sum and substance of what you were told.
A. Yes.
Q. So sort of like on a need-to-know basis.
A. Correct.

Q. And up until that point, at least until yesterday they were keeping -- that information had been kept from you; is that correct?
A. I don't think I was --
Q. Other than just generalities you knew that they were looking at things and that experts were being consulted, but beyond that you had no knowledge of specifics.
A. Correct.
Q. Now, yesterday then you had this meeting. Did you learn anything in that meeting yesterday to fill in some of the specifics, some of the details?
A. I learned we were looking at intravenous, intramuscular, interosseous, multiple drug, single drug, and different drug options. I learned we were talking with experts about this issue.
Q. Who provided that information, was that Mr. Voorhies or the warden?
A. I mean it would be difficult for me to say who said what. It was a general discussion amongst the four of us.
Q. But in terms of what you drew out of it or what you were able to take way from it is that specific options being considered are interosseous,

correct?
A. Uh-huh.
Q. Could you use words?
A. Yes.
Q. Intramuscular?
A. Yes.
Q. You said intravenous, that's what you're doing now right.
A. Yes. But we are still considering that as an option.
Q. Understood.
And also the option of going to one drug as opposed to three, correct?
A. Yes.
Q. And were you told during this meeting anything about the specific drugs that were being considered evaluated?
A. No.
Q. So if you heard the term Hydromorphone.
A. That's the first time I've heard that term.
Q. Sitting here with me right now?
A. Yes.
Q. It's the first time I heard it today too,

so we're alike in that respect.
But that wasn't discussed at yesterday's meeting?
A. Not whatsoever.
Q. The expert who is being worked with, was that identified, that person identified?
A. Yes.
Q. Is that Dr. Dershowitz?
A. Yes.
Q. Anybody else that you were informed that State or the folks at DRC are working with on this topic?
A. No.
Q. So am I correct in understanding then that what you learned yesterday is essentially the things we've just discussed?
A. Correct.
Q. And were you given any direction as to whether you were permitted to share with the media with respect to those topics and those issues?
A. Yes. I mean I was told that it was permissible to share those talking points with the media if we were asked those questions.
Q. That happened today evidently, correct?

A. Actually I received the first call last evening about it.
Q. Who called?
A. Last evening Peter Krouse with the Cleveland Plain Dealer.
Q. And did you provide any information to Peter?
A. I did. I provided the options that we just discussed. I did not provide the name of the litigation expert because I wasn't asked that question.
Q. And any other reporters contact you since yesterday since Peter contacted you?
A. Yes, today. Steven Majors with the Associated Press, Alan Johnson with the Columbus Dispatch. About this issue, I'm trying to think.
I have a name right here. Scott Gerfin with WTVN 6.10 radio.
Q. That's right here in Columbus.
A. Yes. I think that's all.
Q. Did you provide to those individuals the same types of information concerning the options that are being evaluated or looked at?
A. Correct.

Q. So if we see this AP report, that's because I'm assuming you must have spoken with Majors -- Steve Majors, is that his name?
A. Correct.
Q. -- sometime, and he must have filed that report.
A. Correct.
Q. And that's why we're seeing it today.
A. Correct.
Q. The timeline that is used for the executions, we've heard a lot of testimony about that. I wanted to ask you is the timeline something that's available to the reporters on a realtime basis?
A. No.
Q. So, for example, if I'm an AP reporter and I want to know what's happening at 5:30 the night before an execution, I can't get access to that timeline to see --
A. We've never had that request. We provide our media briefing based on the timeline. That's how we share that information with them.
Q. But it's not available in realtime.
A. No.

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Q. So they don't get it the same time, for example, the Governor's Office would get it.
A. I don't know when the Governor's Office gets it. But I don't think -- they can't view it on the same realtime basis. I can.
Q. You can. How can you view it on a realtime basis? If you wanted to see it, how -- where would you go?
A. I'm at the prison to -- I view it in the Incident Command Center.
Q. So you go to the Command Center right off the warden's office there.
A. Correct.
Q. Off the hallway where the training room is, correct?
A. Correct.
Q. And that's available to people in that room on a realtime basis, correct?
A. Correct.
Q. In other words, broadcast on the wall, isn't it?
A. Correct.
Q. Isn't that how they do it, they have a projector?

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A. Yeah.
Q. So everybody in the Incident Command Center can see what's being entered in realtime, correct?
A. Correct.
Q. Anybody else have access to that realtime capability besides the people in the Incident Command Center?
A. I don't know that information. I don't have that answer. I would hate to speak to that issue, I don't know.
Q. Do you know whether the people in the Equipment Room in the Death House have access on a realtime basis to the entries being made on the timeline?
A. I don't know that answer.
Q. And then you said I think that the AP gets the timeline the next day; is that right?
A. Yeah. Andrew Welsh Huggin has a standing request, public records request for the timeline. Generally he gets it the next -- either that day or the next day depending on what time the Command Center closes.
Q. What about this issue of Broom and the

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possibility of this whole issue of IV drug use and whether he was an IV drug user or not and all of that. You have no firsthand knowledge of any of that I would assume.
A. No.
Q. Correct?
A. No.
Q. Were you given any guidance or direction from anyone within the DRC as to how to deal with that issue --
A. No.
Q. -- in the media?
A. No.
Q. Did you -- I think you discussed that in the media though, didn't you?
A. We had said -- what I had said was that we were being told that he was claiming to be an IV drug user and then he had stated that he was not. So his information was conflicting.
So we -- what I said over and over was that we can't verify that that's an issue in this case whatsoever.
Q. Did you, when you spoke to the media on that topic did you essentially say what you just told

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me?
A. Yes.
Q. There was conflicting information?
A. Yes.
Q. The issue of the lawyer getting access to Mr. Broom, did you have any knowledge about that insofar as Adele Shank, she was there that day, correct?
A. Yes.
Q. I imagine you must have seen her.
A. I spoke to her prior to going over to the Death House. I believe that part of my responsibility is to ensure both the victim's and the offender's representatives understand that the media's present and that they have the opportunity to speak to the media if they choose to.
So prior to going over to the Death House I stopped into the room where Ms. Shank was and I stopped into the room where the Middleton family was and I let them know that immediately following the execution we would allow the pool reporters to report out what they witnessed.
And then the victim's family would be given an opportunity to speak, and the offender's

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representative would be provided an opportunity to speak.
I let them know that ahead of time so they can start thinking about whether they want to or not. Not a hard decision, whether they want to. But I do think sometimes people want a little bit of time to digest.
Q. So this is before the process would be started.
A. Correct.
Q. Before the warden would have even read the warrant. Is that your understanding of the time?
A. Before we ever went over to the Death House.
Q. And refresh my memory, you went over to the Death House when?
A. Shortly before 2:00 o'clock.
Q. And do you remain there then throughout the entire process until it's over?
A. Correct.
Q. We've got a little chart here, a little schematic of the Death House. It's Exhibit 85. Ms. Walburn, if you would take a look at that, and does that appear to you to be sort of a schematic of

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the Death House and its layout?
A. Yes.
Q. And where are you stationed, during the Broom execution where were you stationed?
A. The media stands along the back wall of the witness rooms and they are permitted to move between the witness rooms.
Q. Are they really?
A. So that they can see the -- observe both the victim's and the offender's as they witness the execution. So I'm mainly in this room.
Q. In which room?
A. I do the same thing.
Q. It's one room?
A. That's one -- there's not a door there. So I'm along the back wall attending to the media representatives. And then during this event I was also occasionally in the vestibule.
Q. And then so what you're pointing to on the schematic then is the area where the family witness room and the victim witness room is, correct?
A. Correct.
Q. And so that is just for those of us who have not been there, that is basically one room,

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correct?
A. Yeah. That's just one short partition wall but that's completely open.
Q. And there's a partition then which I guess the idea of that partition is to kind of keep the family members, the victim's family members separate from the inmate's family and friends so they're not going to be seeing each other and get into a tussle.
A. Well, it's an emotional day, so we want them to have as much privacy as possible. With the media watching them.
Q. But the media's right there too.
A. And that we have to do. But as much as possible in terms of separating them from each other, yes.
Q. So on that day on September 15th Pete Krouse was one of the media people back in that area, correct?
A. Correct. Tracy Carlos.
Q. From Channel 5 in Cleveland.
A. Yes. John Craig from --
Q. John Craig from Cincinnati.
A. And Steven Majors.

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Q. Those four?
A. Correct.
Q. So those would have been the four media people lining the back wall. They were free to move back and forth but they had to stay in the witness room?
A. Very briefly Tracy Carlos stepped out and had some water and sat out in the vestibule.
Q. She got a little sick or hot?
A. Yeah, I'm not sure what her issues were.
Q. She got a little hot and felt faint or something?
A. Yeah. But the others I think as it went on I couldn't remember which one, I think someone was able to use the restroom.
Q. So you've identified the scene. And in terms of the victim's witnesses that day as I understand it it was Mrs. Middleton; is that correct?
A. Mr. Middleton.
Q. Actually came over and witnessed?
A. Yes. He changed his mind at the last minute. And then Ms. MacIntosh. That's the aunt of the victim.
Q. So those three people were in the witness

room for the victim's family, correct?
A. Correct.
Q. What about the FBI agent, was he there?
A. I don't know anything about -- there was not an FBI agent there.
Q. Gary Bellimini I think his name is?
A. I never heard that name before.
Q. His name's been on some of the documents that I think were probably in your media package of a witness who may be there. He was somebody involved in the investigation about the case at the time.
A. I don't know anything about that. I can't speak to that issue at all. He was not in that room.
Q. He wasn't in the victim's witness room on the day we're talking about.
A. Correct.
Q. In the inmate's witness room there was nobody present, correct?
A. Correct.
Q. Because Romell had no witnesses that he wanted to see the execution.
A. Correct.
Q. And you come over, correct?

A. First.
Q. You're the first one over?
A. Yes.
Q. And then somebody else, somebody on your staff or somebody on the prison staff?
A. No. I go over with the media witnesses. So I -- Larry Green and I walk the media witnesses over, so that's the first group in. Then the Middleton family came in next with our staff from the Office of Victim Services. And there was no one else.
Q. And that was it.
A. Yes.
Q. And everybody's in place for the process to begin.
A. And at that point the video screens come on.
Q. Where are those at?
A. They're in the corners right here of this room.
Q. So from either room you people in the witness rooms can see what's happening in the holding cell.
A. Correct.

Q. So those go on. And am I correct in understanding then that you are in the Death House then for the entire time until the reprieve is issued on that day; is that right?
A. Yes.
Q. So you never left to go back to --
A. No.
Q. -- wherever, the prison or to the Command Center or to where Ms. Shank might have been, for example?
A. No. The only time I interacted with Ms. Shank was when she came over to the Death House.
Q. And then so during the execution your perspective then is that of somebody who can see the screen, correct?
A. Correct.
Q. That's it.
A. Correct.
Q. You never were able to go or did you by any chance get into this hallway --
A. No.
Q. -- to see Mr. Broom in person?
A. No.
Q. And I assume nobody from the witness area

was permitted to do that?
A. No.
Q. What is the rule with respect to attorneys? Do you know what the rule is on that? Are they allowed to meet with their client once the warrant is read?
A. Cell front visitation with the inmate stops in the morning at approximately 8:00 o'clock. And then he can continue with his spiritual advisor until 8:45. After 8:45 he's not permitted any visitors.
Q. Period.
A. Other than staff.
Q. Including his attorney.
A. Correct.
Q. So tell me how it is you ended up interacting with Ms. Shank.
A. She was brought over and came into the offender's witness area and she said to me I need to know what my client wants. And I responded that he's cooperating.
She was very agitated at the time. And I said he's cooperating. She said well, he's always cooperative. I need to know what he wants.

So at that point I walked out of the vestibule, approached this doorway, it's locked.
Q. Just for the record please, if you would just tell us.
A. Approached the doorway to the hallway. It's labeled "hallway" I guess.
Q. Labeled 6 --
A. 8-by-20. So I approached this locked door there in the 8-by-20 hallway.
Q. Right down from the witness rooms.
A. Correct. That door is locked.
Q. All right.
A. So at that time I believe, and this is all recall, Ed Voorhies stepped out and I explained to Ed that Adele was out here, and I'm not sure how it came about but I spoke to Ed at that time and then they told me Austin was coming out to speak to Adele.
Q. So --
A. I walked back and let her know Austin was going to step out and she met Austin in the middle of the vestibule.
Q. Did you have any warning that Adele was coming over?
A. No.

Q. Did she just appear?
A. Well --
Q. How did that happen?
A. We could -- I could hear people coming in the front entrance. So I just looked and they said they're bringing Adel in.
Q. Do you know how it was that she ended up over there?
A. No.
Q. You had nothing to do with getting her over there --
A. No.
Q. -- no knowledge as to how she got there.
A. No.
Q. She's there now in the area where the witnesses are, correct?
A. Correct.
Q. Are you the first person she speaks with as far as you can tell?
A. As far as I know.
Q. Your recollection is that she was upset or agitated at that time.
A. Yes.
Q. Was she yelling, was she raising her

voice? How did you know she was agitated or upset?
A. She was speaking fairly loudly. I mean the witness rooms are extremely quiet. So she was speaking fairly loudly. She appeared nervous. I mean she just appeared distraught.
Q. Tell me if you can recall to the best you can what she said to you.
A. That's when she said I need to know what my client wants.
Q. Did you understand what she meant by that?
A. No. That's why I said he's cooperating, and she said well, I need to know what he wants. I need to know what he wants.
So at that point I -- that's when I walked over and talked to Ed and was told Austin's going to come out and speak with her.
Q. Do you remember, Ms. Walburn, how long the process had been going at the time Adele arrived?
A. I don't.
Q. As you think back on it had the -- you had commented he's cooperating, right?
A. He's cooperating.
Q. So you must have been able to draw that

conclusion from watching the screen, correct?
A. Yes.
Q. So the process had at least started.
A. Preparatory process had started. We were into the preparatory process.
Q. What do you determine as the preparatory process?
A. The preparatory process is where we turn on the screens and start to insert the IV shots, heparin locks.
Q. And in terms of whether it's the preparatory process or the execution process, whatever it's called, you'll agree with me that by this point the warrant had been read to the inmate, correct?
A. I don't know that, no. We in the witness room, you don't have any indication of when the warrant's read. You don't view that.
Q. But you call it the "preparatory process" why? I'm confused by that. Because I view it as the execution has started because Mr. Broom had been read the warrant. He was not --
A. According to our policy the execution process does not start until the inmate enters the

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Death Chamber.
Q. Where does it say that?
A. In our policy it's very clear that it distinguishes when the execution process starts.
Q. Could you show me how you -- where you get that from in the policy? You're looking at I imagine -- why don't you take a look please, Julie, to Exhibit 12A. I'm assuming that's probably the same thing you have in front of you.
A. Yes.
Q. That's the policy effective May 14 of '09.
A. If you look on page 8. No. 8. Clearly labeled Execution. That's where I view the execution process starting.
And it says the warden and execution team will escort the condemned prisoner to the execution chamber.
Q. Fair enough. So that's why you're making the distinction between preparatory and execution; is that correct?
A. Correct.
Q. Do you know where it is in the policy here where it addresses the reading of the warrant?

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Is that addressed at all in the policy?
A. Yes. On page 6, No. 6, Approximately 15 minutes prior to the scheduled execution the warden will read the death warrant.
Q. So item 6 in Exhibit 12A on page 6, correct?
A. Correct.
Q. Then item 7 addresses the medications that will be used and establishing the IVs; is that correct?
A. Correct.
Q. And then item 8 is the actual insertion of the drugs. Correct?
A. Item 8?
Q. Item 8 the actual --
A. I don't see item 8.
Q. Item 8 on page No. 8.
A. No, that's item 8 on page 8 of 10 is after the IV lines have been established.
Q. No, I know. After the IV line is established you get to item 8 which is the actual insertion of the drugs.
A. Oh, yes.
Q. The actual insertion of the drugs that

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will be used to cause the death, correct?
A. Correct.
Q. Did you, by the way -- maybe I should ask this: Did you have anything to do with drafting this, writing this, any of that?
A. No.
Q. You hesitated.
A. Well, at the time this policy was revised I was a policy chairperson for the agency. I oversaw policy development for the agency in my prior job.
Q. So did you have anything do with this policy?
A. Only thing I did was take it through the revision process and get the director's signature on it. I had nothing to do with the content.
Q. How long does that take, the revision process?
A. For the execution policy? The execution policy is not subject to any other policy guideline time frames that we have. Other policies have a time frame.
Certain policies in our Department policy on Policies it specifically states that provisions for non-routine policy revisions in the execution

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policy always falls under a non-routine policy.
Q. So does that mean it can be done as quickly as needed?
A. Yes.
Q. Or it can take as long as desired.
A. It can be done immediately. Most policies can't be done immediately.
Q. Most can or can't?
A. Cannot. Most policies cannot be revised immediately.
Q. But this one the execution policy is one that can be revised immediately?
A. If needed.
Q. If the director decides it's necessary; is that correct?
A. Correct.
Q. So the policy revision will take as long as he tells you it shall take.
A. Correct.
Q. So if he says I want it done tomorrow, it's done tomorrow.
A. Correct.
Q. Back to the -- let's go back into the events of September 15. Adele comes over, she's

upset and agitated.
Take a look at the timeline if you would please, Ms. Walburn. I think it's in front of you. That's Exhibit 76. And if you would look please at let's say Bates page 305 if you would.
A. Okay.
Q. At the top -- this is going kind of in reverse order, so at the bottom of the page are the earlier times and it goes up, it gets later as you move up the page.
But it appears from the timeline that you would have gone over when? Would that be 1:51 when media's cleared to CC1?
A. Correct, that would be. I would go over with the media when the media's cleared to CC1.
Q. What does CC1 mean?
A. I don't know that.
Q. But --
A. And then when it says media witnesses are in place, you can assume I'm in place with them.
Q. So 1:54 you're in place over at the Death House.
A. Correct.
Q. And it appears that if you look at the

timeline anyway, 1:59 the warden has completed reading the death warrant. Do you see that, 1:59 p.m.?
A. Yes.
Q. Page 305, right?
A. Yes.
Q. And then the medical team enters the cell at 2:01.
A. Yes.
Q. And then the entry immediately before that at 2:00 o'clock it recites have picture. Do you see that?
A. Yes.
Q. So that would have been the time you guys in the witness room would have been able to see the video.
A. Correct.
Q. So we're on the same page. So the process begins. Are you aware at some point that a break has been taken --
A. No.
Q. -- by the team?
A. Well, let me clarify that. I was aware once I spoke with Ed Voorhies, I believe I spoke with

Ed two times. But I am aware that during one of those discussions he told me they're taking a break. But I'm not sure when he told me.
We realized that they had stopped attempting to work, attempting to insert the IV lines before I talked to Ed. So when I saw Ed come out, that's when they told me they were taking a break.
Q. You had the monitors there and were you able to tell when they were and when they were not working on Mr. Broom trying to establish an IV?
A. Yeah.
Q. Is that something you could tell by watching the monitor?
A. Yes.
Q. Did you watch the monitor? Was that something were you doing, or were you really more paying attention to other things?
A. I was watching the monitor but I was also attending to media representatives. So I occasionally had to remind them that they couldn't conduct interviews in the room or that -- see if they were okay or check on Tracy Carlos who needed to step outside and sit down.
So I was watching the monitors but also

attending to the media representatives.
Q. But at some point were you able to observe that it appeared they had stopped working?
A. Yes.
Q. Do you have a recollection as to how long in the process you recall that happening?
A. I would have to estimate. I just don't feel comfortable providing an estimate. I don't know.
Q. More than a half hour? Less than a half hour?
A. I just don't know.
Q. Would the timeline help on that at all or not?
A. It was obvious to us that the preparation process had stopped when the inmate had covered his face. That was to us a clear indicator they weren't working on him right then. He had covered his face.
Q. Tell me what you saw.
A. When he covered his face? I just saw him cover his face.
Q. How? Show me how he did it.
A. (Indicating.)
Q. With his two hands?

A. I believe so. You couldn't see his expression at all.
Q. Do you know what he was doing?
A. No, I have no way of knowing what he was doing.
Q. Did you ever find out, ask or?
A. No.
Q. Did he appear to be crying?
A. I would not know that information. His face was covered.
Q. Did he appear to be sobbing?
A. I would not know that. His face was covered.
Q. Well, I know, I mean your face could be covered and a person appear on a monitor to be sobbing.
A. I didn't get that impression.
Q. That's all I'm asking, what you believed occurred.
So at some point he covered his face and you remember seeing that on the monitor?
A. Yes.
Q. Was that before or after Ms. Shank arrived?

A. I'm just not sure.
Q. There's a note on the timeline, inmate is wiping face with tissue. Did you recall observing that?
A. Yes.
Q. Was that part of the covering his face or was that a totally different event?
A. He had a roll of toilet paper. You could see him unravel the toilet paper and wipe his face. But I don't know if it was at the same time or a different time.
Q. It appears according to the timeline that Ms. Shank came over to the Death House at 2:58. Do you see that?
A. Yes.
Q. On page 304. So if the timeline's right, that would have been the earliest you would have first seen her, is that correct, at the Death House?
A. Correct.
Q. There's a note immediately before that at 2:57, the inmate is now requesting his attorney Adele Shank to witness. Do you see that?
A. Yes.
Q. Were you made aware of that?

A. No.
Q. And obviously you couldn't hear that.
A. Correct.
Q. And you guys in the witness room can hear nothing, you just can see the monitors.
A. Correct.
Q. Can you hear anything in the witness room as to what's going on in the rest of the building?
A. I did not hear anything.
Q. I know if people are yelling or fighting would you be able to hear it in the other room?
A. Yes. I mean from what I understand, yes, you can hear things if someone's yelling in there.
Q. In the other part of that building.
A. Yes. In the other part back behind the secured door.
Q. So if Broom that day had been screaming and yelling and shouting, that's something that the witnesses and the media people and everybody in the area you were in you expect would have been able to hear.
A. Yes.
Q. But you heard nothing like that that day.
A. Correct.

Q. So let's assume the timeline's right, around 2:58 then, close to 3:00 Ms. Shank comes over. Would it be your best judgment that would have been about the time you had that encounter with her what would have been in the hallway or the witness room?
A. It was in the witness room.
Q. In the inmate family witness room?
A. Yes.
Q. Were there any witnesses to that?
A. The media was witnessed. I believe one of them even quoted our conversation in an article.
Q. Really?
A. Yes.
Q. What do you recall?
A. They said that Ms. Shank said she needs to know what her client wants and that the spokesperson replied to her he's being cooperative, and she stated he's always cooperative.
So that exchange was actually I believe it was in John Craig's article.
Q. So at that point in time is that when you went down the hall to that door that you described a minute ago?
A. Yes.

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Q. And did you have to knock or what did you do?
A. I did not knock. They're heavy steel doors. I don't know that knocking would be effective. But they were able to see me. There's a window.
Q. Oh, there's a window. And what can you see from that window?
A. I can see nothing, but there was a person standing right there and they -- and then I saw Ed Voorhies' face in the window.
Q. And did Ed open the door?
A. Well, the door's locked.
Q. But did somebody open it?
A. Someone would have had to unlock it and open the door. I would have no knowledge who that was.
Q. But it was opened.
A. It was opened and he came out of it.
Q. Did he come out into the hallway?
A. Yes.
Q. Did he speak with Ms. Shank or do you remember?
A. I don't remember. If he spoke with her

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it wasn't while I was standing right there. So when she walked down and met Austin in the middle, I'm not sure if Ed spoke with her then or not. I don't know that.
Q. So you opened -- the door was opened and you had a conversation with Ed Voorhies, correct?
A. Yes. And I was told that Austin was coming out to speak to Adele.
Q. But you must have told -- did you tell Ed Voorhies that Adele's here?
A. I believe he came out saying Austin's coming out to speak to Adele.
Q. So did they know she was there?
A. Well, I assume they knew because she was cleared to come over to the Death House.
Q. So that would have shown up on the timeline.
A. Yes.
Q. Do they have a view of the timeline?
A. I don't know that. Someone in there enters entries into the timelines.
Q. I guess my understanding of the entries are they happen at the Command Center. The actual entry occurs at the Command Center. Once the process

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starts.
A. I don't know once the process starts. I know of while they're observing the inmate the day prior they can make entries. But once the process starts I don't know who make those entries.
Q. The testimony has been it's done over at the Command Center.
A. Yeah, they would know that.
Q. And if there's somebody in the Equipment Room at the Death House who actually sort of serves a play by play to get that information over.
A. I don't know any of that.
Q. But in any event your impression was Ed Voorhies when he saw you already knew that Adel was there or on her way over.
A. Correct.
Q. And told you that Austin's going to come and talk to Adele.
A. Yes.
Q. What happened next?
A. Austin came out and spoke with Adele.
Q. Immediately or did the door have to be closed and wait, or do you remember?
A. Oh, gosh.

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Q. I'm sorry for all the details.
A. I can't remember that. I know he came out very shortly. It was very directly he came out and spoke to her. Whether the door closed in between I don't know. But I know he was out there very quickly and I believe he spoke to -- he might have come out twice but I'm not sure.
Q. But he came out at least this first time, correct?
A. Yes.
Q. And were you present?
A. I was standing down the hallway. I wasn't standing where they were. I mean I could see them speaking.
Q. You could see them having a conversation.
A. And I could --
Q. Correct?
A. She was loud.
Q. But you could see them having a conversation.
A. Yes.
Q. And could you hear their conversation?
A. Only parts.
Q. Tell me what you heard.

A. I could hear her stating that she needed to know what he wanted. She reiterated her conversation with me. I couldn't really hear what Austin was saying. I only heard hers because she was loud.
Q. Did you understand why she was loud? Did you sort of understand from her perspective what was happening? I mean could you put yourself in her position and say if I was in her position I'd be loud too?
A. I wasn't putting myself in her position.
Q. Okay. But she was -- what do you remember her saying? She said I need to know what my client wants; is that right?
A. Yes. And that's all I remember. I believe she must have spoke with Austin a second time because for some reason I'm recalling the second time she spoke to him she was much more forceful and made comments that he's denied her access one time and if he denied her access again, she was putting him on notice that she wouldn't be denied access to her client. Something to that effect. I can't recall word for word.
Q. But that's sort of confirming in your

mind there were two separate encounters between Adele and Austin.
A. Yeah, I think there were.
Q. Have you given me the best of your recollection as to what you recall hearing during that first encounter?
A. Yeah, I mean I can't really recall all of it.
Q. How long did it last?
A. Minutes. Because then she came back in and said she was going to go back, she needed to go back across to file some paperwork. She was very agitated, very, I don't know how to best describe it.
Q. Concerned for her client? Would you describe it that way?
A. I don't know what her state of mind was, I just know her behavior. And so she was very agitated is the best word I can describe. She couldn't stand still.
So she was kind of pacing and then she said she needed to go back across, she needed to call the Governor, she needed to file some paperwork, she needed to get someone to intervene.
Q. Did she do that and go back across before

her second encounter with Austin?
A. I believe so.
Q. So is it your best recollection, Ms. Walburn, that she left the Death House, went back across to the -- what do we call it, the main building?
A. Yes.
Q. And then returned again a second time?
A. She did do that, yes.
Q. And during this time that she's being -- after the conversation with Austin was it clear that she was not going to be permitted to speak with Mr. Broom at that time?
A. Yes.
Q. Was that clear to you?
A. Yes.
Q. Did you know that that would be the decision?
A. Yes.
Q. Or did you learn that when Austin conveyed it?
A. No, I knew that.
Q. How did you know that?
A. Because I know the inmate's visitation

stops at 8:45 a.m. per policy.
Q. Why did they need Austin to tell Adele that and why couldn't you just tell her that?
A. Well, I just I think it's our practice that an attorney, our legal counsel speak on behalf of the Department when there's a legal matter. I mean her role there was very clear, that she was an attorney representing the client.
Q. So your view was that the proper way to handle that kind of a request from the Department's perspective is to let someone from the Legal Department explain to the inmate's attorney what the rules were with respect to these issues, correct? As opposed to you having to explain them.
A. Correct, in this circumstance.
Q. And am I correct in understanding that the explanation that was provided to Adele by Mr. Stout on that day, at least that first time that you're talking about, was you're not allowed back in here, you can't speak to him?
A. As stated earlier, I couldn't hear what Austin said. I could hear what she said because she was loud.
Q. He was being quiet?

A. **Yeah, he was being quiet speaking to her.**
Q. But in any event, she was denied.
A. **She was not permitted in the area.**
Q. And that didn't surprise you, you expected that, correct?
A. **Correct.**
Q. And was she allowed to -- did anyone say you want me to give a message to Romell, anything like that? Was she permitted to do that at least?
A. **I have no knowledge of what Austin said to her.**
Q. Did you hear anything like that though from Adel, I want to give him a message, take this message?
A. **I never heard her say that.**
Q. She comes back pacing for a little bit. Did she say anything?
A. **The second time?**
Q. No, this is still the first time before she goes across.
A. **From what I understand Larry Green told me she spoke to the media but I was out in the vestibule so I didn't hear her speak to the media.**
Q. What do you mean?

A. **The media that was here in this witness area. That she had spoken to them. I did not hear that but I was told.**
Q. Is that okay? Is there a significance of that?
A. **No significance in that. I mean we don't allow the media to interview witnesses in this area, so I think that's why he told me that. Because we don't want the media approaching people in a very somber time requesting media interviews in that area. It's not the area for it to be done.**
Q. Where is Mr. Green during all this?
A. **Same area, either in here or out in the vestibule.**
Q. So you and Mr. Green are sort of both handling this task?
A. **Yes.**
Q. Making sure the media's following the rules and kind of being there to assist the witnesses?
A. **The media witnesses.**
Q. But also the victim's --
A. **We have Office of Victim Services staff there that assist the victims.**

Q. That's not part of your job that day?
A. **It's not my official job. Would I offer to assist if it was necessary in some way? I mean we offer them water if they needed water, that kind of thing, because we were there a while.**
Q. So is there actually a person physically present in this half of the Death House where the vestibule and witness rooms are located from Victim Services?
A. **Yes, two people.**
Q. Where are those people located?
A. **Standing right behind the witnesses' chairs.**
Q. So they're actually in the witness room with the family members.
A. **Correct.**
Q. Do they in fact witness the execution?
A. **Yes.**
Q. So they would have also been watching the screen too I take it.
A. **Yes.**
Q. So Adele evidently spoke to those four people from the media.
A. **That's what I was told.**

Q. I understand. But that's what you understand the sequence is: She had the conversation with Austin, got a no to her request to go talk to her client, correct?
A. **That's only my assumption. I didn't hear what Austin said.**
Q. And then came back and spoke with the four members of the media that were in the witness room.
A. **That's what I was told. I wasn't present if she did speak to them.**
Q. But Larry Green told you that.
A. **Yes.**
Q. But you were in the vicinity of all this.
A. **Yes.**
Q. What were you doing?
A. **I may have been talking to Ed. They were again, like I said, there were two times that I was receiving information from Ed on what we were doing. There was a time when he told me that they were taking a break. Those kind of things.**
Q. And you yourself never actually went into the holding cell area, correct?
A. **No.**

Q. You always remained on the other side of the door.
A. Correct.
Q. Was Ed also your kind of source of information for what's going on inside the door?
A. Yes.
Q. Nobody else?
A. Nobody.
Q. Not Austin, correct?
A. No. Other than knowing he was coming out to speak with Adele.
Q. But in terms of information you were receiving, you were getting it from Mr. Voorhies, correct?
A. Correct.
Q. And up until that point in time what had you heard or learned from Mr. Voorhies, if you can remember?
A. He had told me they were taking a break. He told me that Austin was coming out to speak to Adele.
He had told me the issue that we've already discussed about conflicting information between whether he was an IV drug user or not.

And he had told me that the inmate appeared to be very conscious of the cameras and he was very nervous because he knew people were watching.
Q. Anything else?
A. No.
Q. So that in terms of where you might have been when Adel was speaking to the media you might have been getting that information.
A. Correct.
Q. Your understanding is that Ms. Shank then left the Death House; is that correct?
A. Yes.
Q. And went to the other part of the main building, correct?
A. Yes.
Q. And how long after that did she return to your knowledge?
A. I don't know. It was a brief period that she came back.
Q. Why don't we take a look at the timeline if we could.
A. Yes.
Q. Maybe this will help nail down some of

these things, Ms. Walburn. Page 304 it appears we have established about 2:58 or so when Adele first arrived, correct?
A. Yes.
Q. And then it looks like --
A. 3:09 she left, went back.
Q. Well, 3:04 it looks like there's a note about the inmate's attorney speaking with DRC Attorney Stout.
A. Yes.
Q. So if the timeline's right, that would be the first conversation you've testified about.
A. Correct.
Q. That you at least witnessed having occurred, whether or not you heard anything of it is a different thing.
A. Yes.
Q. And then at 3:05 it looks like medical team is now back in the cell, correct?
A. Yes.
Q. And 3:08 it looks like that conversation between attorneys is completed. Do you see that?
A. Yes.
Q. And process to continue. Do you see that

entry?
A. Yes.
Q. So it appears that the conversation between Adele and Austin at this time, if this timeline is right, went on for four or so minutes, correct?
A. I would assume.
Q. The fact that there's a note "process to continue," that doesn't have -- there's no linkage between the two. The fact that the attorneys complete their conversations, that has nothing to do with the process continuing?
A. I have no knowledge of that.
Q. And then 3:09 it appears Ms. Shank is being escorted back to the CC1 area; is that correct?
A. Yes.
Q. And what is CC No. 1?
A. I don't know what that means but it's outside the Death House. She was taken back to the main building.
Q. And then looks like after she left did you observe that the process did continue again?
A. Yes.
Q. So you were able to see the monitors,

they were back trying to get access, right?
A. Yes.
Q. Do you recall what you observed? Can you remind us of anything you saw during that second time after the break?
A. I remember him is sitting on the edge of the bed.
Q. Sitting now in instead of laying.
A. Yes.
Q. What could you see from the monitors?
A. I can't be time specific of when things occurred.
Q. I'm not asking that right now. What could you see in terms of him? Could you see -- how much of it could you see when he's sitting on the bed? What was your perspective?
A. I could see him sitting on the bed. I mean I can see him sitting on the bed.
Q. But it was from the top, right?
A. Correct.
Q. So what could you see? Try to put us there because none of us were there. We're asking you to do that, put us in that spot, what are you seeing?

A. I could see his person sitting on edge of bed. I could see the top of his head, and that's what I'm saying, I can't say specifically at what time I saw what thing but I could see him.
Q. Fair enough.
A. I could see the tops of the heads of the team members as they attempted to insert the IV lines. So.
Q. That's basically your perspective.
A. And I mean I could see his body.
Q. Could you see his entire body like his feet, for instance?
A. At different times I could.
Q. Because there's testimony there were the medical team members at times tried to work on the feet and the ankles.
A. I could see that.
Q. Could you see that the medical team was working on the feet and ankles, was the camera capturing enough of the scene that you could see that?
A. Parts of it, yes. And at other parts I definitely could see at times they were attempting to insert a line in his ankle. Or in feet.

Q. Tell me what you saw there. Did you see who did that or any of that?
A. I just knew it was an execution team member. I don't know. We're looking at the tops of their heads.
Q. Did you know or were you made aware that the Institution's doctor had been called over --
A. No. I did not know that.
Q. When did you first learn that?
A. Probably a week ago.
Q. So that was not something you knew at the time?
A. No.
Q. Is that correct?
A. Not that day. Not that week.
Q. Did that surprise you when you learned it?
A. Our policy allows for a physician to be on site. So I wasn't surprised, no.
Q. Really? It allows for a physician to be in attendance, correct?
A. Correct. So that doesn't surprise me that we followed our policy.
Q. Does the policy provide for a physician

to assist in any way in the process?
A. Hands on?
Q. Yeah.
A. Our policy doesn't speak to that. It doesn't say that physicians will assist hands on.
Q. Does it address it one way or the other? Is that how you read the policy or not?
A. I would have to reference the policy directly to -- for the exact wording, but it talks about that staff who insert the IV lines have to be people who are qualified to insert the IV lines and there's a certain group of people who are in that group that can do it. It doesn't include physicians in that group.
Q. Did you know this physician was Dr. Bautista?
A. I don't know her.
Q. Because you're not stationed at SOCF.
A. Correct.
Q. So we've learned through the discovery in this case her name's Carmeletta Bautista. You don't know her? Never met her?
A. I don't know if I met her in passing during an audit. But I probably wouldn't recognize

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her if I saw her.
Q. Do you remember seeing her on the screen --
A. No.
Q. -- that day?
Or at least seeing somebody who you didn't recognize and learning maybe later it must have been her?
A. No.
Q. Have you had any discussions with the director or anyone at DRC about the physician's role in Mr. Broom's execution and how that should be handled with the media?
A. No.
Q. None whatsoever?
A. No.
Q. Have you had any media requests about the physician participation or anything like that?
A. In Romell Broom?
Q. Correct.
A. No.
Q. Have you given any thought how you would handle those kinds of requests if you were asked about that issue?

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A. No. As I stated, I didn't know until a week ago that a physician was over in the Death House.
Q. So then Ms. Shank is evidently escorted back to the Death House it appears at about 3:28. Do you see that?
A. Yes.
Q. So that would mean she's now back into your area where you're working that day.
A. Correct.
Q. Tell me what you recall at that time.
A. She was again probably more agitated -- not "probably," she was more agitated this time than she was the last time. She would not sit down. Normally witnesses are seated. She would not sit down. She was pacing.
She started to enter the victim's witness area and I directed her in that she would not enter that area. And she became loud with me and stated that I couldn't stop her from speaking to the media.
And I explained to her I would be happy to have the media come out and speak with her but that my interest is that she is not permitted in the victim witness area. There are victim witnesses

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there.
And she was loud at that time and made some very loud comments to the media that she had called the Governor's Office and that the Governor, is asking the Governor to intervene and filed something with the Supreme Court I believe.
So she was in an agitated state, the media was grouped around her to listen to what she was saying. Which is at that point fine with me as long as we were respecting the victim witnesses that were sitting on the other side of that partition.
Q. I understand. So did she comply with your request.
A. She stood right at the doorway. She would not move from right at that open area leaning against the partition. So she was standing right at the opening.
Which isn't ideal for us, but she was in an agitated state and so as long as she was respectful, I wasn't going to push the issue and make her move from right there.
Q. And you did not push the issue?
A. No, I did not.
Q. You did not?

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A. I did not. I mean I explained to her that she could not go into that witness room and she could -- I would have the media come over there if they wanted to speak to her. But she could not go where the victim's family was.
Q. The victim's family during all of this did you have any knowledge as to how they were handling these long delays?
A. They were very quiet. They were very respectful. They were somber. The one thing that the media made note of and quoted and I heard myself, was Mr. Middleton probably half hour in, I'm guessing on that, estimating, stated that he thought Mr. Broom already looked dead.
That was in the media reports because Mr. Broom was so -- I mean he was making no expression, showing no action, behavior. Was laying very still on the bed. So he had made that comment.
They were very quiet. I had went in and offered them water. They are older and it was warm in there.
Q. Did you say "older"?
A. They're older. They're older people and it was warm in the room and it was a long time. So I

had let them know we had a water fountain and we could get them water and let them know there was a restroom if they needed to use a restroom.

Q. What happened after Ms. Shank had her conversation with the media sort of at the dividing area between the two sections of the --

A. At some point she asked to be taken back. I'm not sure when that was. And again I believe she may have talked to Austin again. I'm not sure on that. But then she asked to be taken back. And that appeared in the timeline to be 3:49.

Q. I see that on page 304.

But your specific recollection is there was -- best recollection is there was a second conversation between her and Mr. Stout.

A. I think there was. I can't be sure on that. I believe it was two conversations.

Q. Do you have any recollection of the second one?

A. That's the -- I do know she was louder and more forceful with him after her first interaction. Whether that first interaction happened the first time she was in or both happened the first time she was in the Death House, she was louder and

more forceful with him.

I again couldn't hear what he said, but that's when he said -- I heard her say I won't be denied access to my client. I'm putting you on notice. You've done this once, or something to that effect. I couldn't quote word for word.

Q. Were you able to hear Mr. Stout's response?

A. No.

Q. But she was denied access again, correct?

A. She was not permitted back to where Mr. Broom was.

Q. Did anybody ask the director whether Ms. Shank ought to be able to speak with her client?

A. I have no knowledge of that.

Q. You did not, correct?

A. I did not. I was not where he was.

Q. And whether that happened or not sort of back in that area of the building you wouldn't know because you weren't there, correct?

A. Correct. I did not speak to the director during this time.

Q. What about since this time? Since this date have you learned whether there were any

discussions at all among the administrators, the higher up, director, Mr. Voorhies, that type?

A. I have hot heard that.

Q. But in any event Ms. Shank was not permitted to go back and was denied apparently a second time; is that correct?

A. She was not permitted to go back and speak with Mr. Broom.

Q. Or to get a message to him?

A. I don't know that. I don't even know if that was asked. I never heard her ask that.

Q. So what happened next? Did you guys, you and her, have any kind of like fights?

A. No.

Q. Scenes or anything?

A. No. Other than me telling her she could not go into the victim's area and her telling me I could not deny her access to the media, that was the only exchange we had.

Q. The only thing you would consider a confrontation?

A. Correct.

Q. Otherwise you had some communications throughout the day I imagine with her but they were

all handled in a -- you wouldn't consider them confrontational.

A. I don't consider the other conversation confrontational other than me explaining to her she couldn't go into the victim witness area and her insinuating that I had a different motive other than respecting the privacy and the situation of the victim's witnesses.

Q. The insinuation would be --

A. Me restricting her access to the media. That wasn't my intention whatsoever.

Q. So did she then leave the Death House?

A. Yes.

Q. It appears that would have been?

A. 3:49.

Q. Where was the process at this time if you can recall?

A. I can't recall at that time exactly what was happening with Inmate Broom, if that's what you're asking.

Q. That is.

A. I don't recall exactly what was happening with him at that time.

Q. When did you come to learn that the

process was going to be called off for that day?
A. Ed came out of the room and said we're going to take the media back across to the main institution. And I believe Austin was with them and I didn't even know why at that point.
So I just instructed Larry, I said -- you stay, they asked, Ed asked me to stay. So I instructed Larry to escort the media back to the media center and then I remained there.
And after the media was gone the director came out of the Equipment Room out into the vestibule area and that's when they let me know what was happening.
Q. According to the timeline it appears it was about 4:17 that the media escorts are bringing media witnesses back to the CC1 area. Do you see that?
A. Yes.
Q. So it would have been about that time that the media left the area; is that correct?
A. I know we escorted them out of that area immediately upon me being told.
Q. You being told to get them out of there.
A. That we were taking the media

representatives back to the main compound.
Q. But am I correct in understanding your testimony that you had no knowledge, had not been told, at least not yet, that the execution was going to be cancelled?
A. Correct, I did not know that at the time that they escorted the media out.
Q. Where were Mr. and Mrs. Middleton at this time?
A. They were still in the witness room.
Q. And Adele Shank had already left.
A. Yes.
Q. And so the only people left really would have been Mr. and Mrs. Middleton and the aunt.
A. Ms. MacIntosh and our Victim Services rep?
Q. So those five people were there and you.
A. Correct.
Q. And Mr. Green had left.
A. Correct.
Q. So what happened next?
A. We spoke right here in the vestibule.
Q. "We" being?
A. I spoke with Director Collins, Ed

Voorhies, Austin. I don't know if the warden was there or not.
And they had told me that the Governor was going to issue a reprieve, and I reminded the director that the victims were still here. So he decided to walk right down and tell them himself what was going on.
So he walked down and spoke to the victim's family and let them know a reprieve was being granted and that the execution was not going to occur that day.
Q. It appears from the timeline that the entry shows a reprieve at 4:24. Do you see that?
A. Yes.
Q. Would this conversation have occurred before that?
A. Yeah. You can see at 4:19 Director Collins was speaking with the victim family members.
Q. So that happened, the director knew about the reprieve sometime before it actually shows up in the timeline at 4:24 as having been issued.
A. Yes.
Q. Are you first hearing of it for the first time when the directer and Mr. Voorhies come out and

tell you?
A. Yes.
Q. So you're hearing it for the very first time at that point.
A. Yes.
Q. And this conversation is occurring in this vestibule in the witness room area of the building, correct?
A. In the vestibule, not in the witness room area.
Q. I'm just calling this whole area the witness room area as opposed to the execution area.
A. We were basically right in front of the storage room, 8-by-13 storage room. We weren't as far over as this door.
Q. And was there any discussion at that time as to when it would be resumed if ever --
A. No.
Q. -- the execution?
A. No.
Q. So you weren't told seven days or anything?
A. I wasn't told that, no. I found that out when I was given a copy of the reprieve.

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Q. You were simply told by the director the Governor's going to issue a reprieve and call this off for today.
A. Yeah, the execution is not going to occur today. We need to go let the media know what's going on after we talk with the victim's family.
Q. Now, the director you said went and talked to the three victim's family members. Were you present for that?
A. Yes.
Q. Tell me what you saw. What happened there?
A. He told the victim's family that the execution was not going to occur, that there had been some difficulty in establishing a useable vein and that because of that they needed to determine what they were going to do next.
And he had talked with the Governor and a reprieve was going to be issued to determine what action the Department should take moving forward.
He apologized to them for their long wait that day and thanked them for their patience and their cooperation as they waited.
Q. Did they, did any of them say anything?

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A. I know they thanked the director for letting them know what was going on. I know at one time Mr. Middleton said "You mean I came down here for nothing?"
But I don't remember if it was when the director was there or not. But I know at one time he said you mean I came down here for nothing.
Q. Were there any tears during this meeting with the director?
A. No.
Q. So what happened next?
A. The director and I and the group that was with us, Ed Voorhies, Austin, we walked over to the media center. And I let the media know that the Director would speak to them. So he approached the podium and spoke with the media.
Q. At some point did Ms. Shank speak to the media?
A. I actually asked Larry to go out and confirm with the Middleton family whether they would be coming to speak. And he came in and gave me a signal that they would not be speaking.
So once the director had concluded his remarks I let Ms. Shank know that she was welcome to

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speak. She was surprised by that. She didn't think -- I don't know why, I had told her before that before we ever went to the Death House that she would be given the opportunity to speak at the briefing.
But she was surprised by that but she said she did want to speak. So then she spoke to the media representatives that are there.
Q. How do you know she was surprised?
A. Because she said really, I can provide a statement? And I said absolutely. And so then she approached the podium and provided a statement.
Q. Anything else happen that day that you haven't testified about?
A. No. Other than taking media calls. And wrapping up the day.
Q. Do you remember, Ms. Walburn, whether any part of the director's statement concerned the issue of Mr. Broom's request to see his attorney, to talk with his attorney, anything like that?
A. I don't recall that. It was filmed so you could --
Q. Yeah, was it filmed?
A. I believe Tracy Carlos' outlet filmed it. But I don't recall him speaking to that issue at all.

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MR. SWEENEY: Thank you, I have no further questions.
- - -
EXAMINATION
BY MR. BOHNERT:
Q. Good afternoon, I'm Allen Bohnert from the Federal Defender's Office. Just have a couple very brief questions.
Do I understand your testimony correctly today that the reason that Ms. Shank was not allowed access to Mr. Broom was because of pursuant to the policy?
A. My understanding is that visitation with the offender stops at 8:45 for everybody including the spiritual advisor. So that would be my interpretation of why it wasn't permitted.
Q. Can you point to me specifically where in the written policy you are drawing that conclusion?
A. Yeah.
Q. Just for purposes of the record so we can know.
A. On page 6 of the policy, letter H, it speaks to the attorney and spiritual advisor may continue to visit with the condemned until 8:45 a.m.

Q. In the revised protocol or policy, sorry, I'll use the language, the vernacular here, it appears there seems to be a new sentence that is added to this policy, the May 14, 2009 policy, that was not previously included in the previously effective policy, which I believe was October 10, 2006 or somewhere thereabouts; is that correct?

A. When the policy was revised I assume there were sentences taken away and sentences added as a part of the revision.

Q. The policy that you have in front of you currently is the Exhibit 12A, correct?

A. Yes.

Q. Which is the May 14, 2009 protocol or policy.

A. Yes.

Q. And the statement that you read does not end there, now does it?

A. No.

Q. And what does the next --

A. The warden may increase the visiting opportunity at their discretion concerning the needs of the team and the interest of the prisoner.

Q. So your statement would not be completely

accurate as the policy now reads.

A. I don't agree. This is talking about visiting opportunities. This is not talking about legal intervention once preparation process starts. That is what she was asking to do.

She was not asking to visit with the offender, she was asking to intervene legally once the preparation process started.

There's no precedent or policy that would allow us to do that; once the execution process begins, visitations are over.

Q. So I guess that takes us back to my original question. You just testified that this paragraph only has to do with visitation. My question is not about visitation.

My question is where in the policy is it or what's the basis for the premise that there is no attorney access to the inmate?

A. Our policy does not allow for attorney access to the inmate once the execution process starts.

Q. I understand that's your position. I'm asking where in the policy that is delineated.

A. You're asking us where we state a

negative in the policy?

Q. I'm just saying --

A. There's nothing in the policy that permits it.

Q. But there's nothing in the policy that forbids it, correct?

A. Once the execution process starts the only people who have access to the offender are the team members.

Q. So let's work with that then. Where is that that you're drawing that from?

A. You're again asking me to prove a negative. Policy doesn't permit anyone else to have access. There's nothing in the policy that says she can have access.

Q. So I guess I'm saying on the converse there's nothing that forbids that.

A. The director and the warden, the policy does say that the warden guides the execution process and if the warden decides, the warden or the director decides they will have access, there are policy guidelines to do so.

Q. So if I'm understanding you correctly, the issue of attorney access to the inmate is

something that the warden or the director can themselves decide to allow even regardless of any negatives or double negatives or whatever that may be here in the written policy; is that correct?

A. Our policy as it stands says that attorney visitation with the inmate stops --

Q. I'm not talking about attorney visitation, so we're not talking about that.

A. Our policy does not state that she's permitted to access the inmate. It does not state that she's permitted to access the inmate.

Q. Let me ask it a different way.

Does your policy allow the warden or the director to make that decision to allow an attorney access to the inmate? Not visitation.

A. I haven't looked at that issue specifically to say whether they have the ability to do that. They oversee the execution process. They make decisions related to the execution process.

Q. Correct.

If I can direct your attention on page 6 directly below subparagraph H there that you previously read and drop your attention a little further down to subparagraph O.

Would you agree that it's accurate to say that this new paragraph which is a new paragraph in the May 14, 2009 protocol, newly added.
A. I don't know that that's new.
Q. Yeah, for our purposes it is. It's something that's newly added, that's not really in dispute.
My question is as you read that paragraph there does that paragraph give the warden the discretionary power to allow things that are not in this written policy otherwise?
A. Absolutely.
Q. We had testimony from you that you had been in the Incident Command Center at some point during the day, correct?
A. Yes.
Q. Were you in the Incident Command Center at any point after? You were doing the press briefing.
A. Yes.
Q. At any point did you go back to the Incident Command Center?
A. You go back through that area to get to the warden's office. Into the area where I take

media calls.
Q. At any point in time were you present when Team Member No. 10, the team leader, where you were present in the Incident Command Center any time that that individual was present in the Command Center?
A. No.
Q. Afterwards you were never present?
A. In the Command Center?
Q. In the incident -- the control room at the Incident Command Center.
A. The control room is something -- where are you talking about? The Incident Command Center?
Q. Well, it's not clear exactly whether it was in the control room or the Incident Command Center, or if those are even one in the same or two separate entities.
A. I know where the Incident Command Center is. I was never present in that room after the execution when the team leader was there.
Q. Were you ever present in the control room after the execution?
A. What are you referring to as the control room?

Q. I don't know, you just distinguished --
A. I'm not sure if you're talking about in the Death House.
Q. It's been a long day, I apologize.
I'll just say this, were you present anywhere ever after the execution attempt when No. 10 was present?
A. Who's No. 10?
Q. The major. The team leader.
A. Yes.
Q. Describe that for me.
A. Describe what?
Q. What was the setting?
A. I think we were jut in a conference room.
Q. Who else was present?
A. I don't know. There was a number of people present. I wouldn't even be able to tell you. Quite honestly I don't even know many of the people's names down there.
Q. I don't want to know names.
A. So I can't even tell you their numbers.
Q. Was Austin Stout present at that time?
A. No, I don't think so.
Q. Did you ever witness any kind of a verbal

confrontation between the Major Team Leader No. 10 and Mr. Stout?
A. No.
Q. Are you aware of any verbal confrontation between those two individuals?
A. No, I'm not. Not until you just said it.
Q. You also gave us a specific list of things Mr. Voorhies told you about during that day.
A. Yes.
Q. On that list there was no mention of dehydration.
A. During that interaction?
Q. It's your list.
A. No, I said --
Q. You said he gave you a specific list of things he spoke to you about.
A. I said during the preparatory process when he stepped out, there's a few things he talked to me about. Yes, that is what he talked to me about.
Q. At any point in time during that day did Mr. Voorhies say anything or anyone else say anything to you about dehydration being a or the cause of the problems gaining venous access?

A. No.
Q. So statements that you are quoted in various and sundry media reports where your words directly are referring to dehydration, are those inaccurate reports then?
A. No, I think it's an inaccurate depiction of what I said. We never made a statement that dehydration led to the issues with Romell Broom.
We said dehydration can be a problem in the lethal injection process and we're monitoring it to see if it could have an impact in the future execution of Romell Bloom.
We never said we thought that was a contributing factor to the issues with Romell Broom.
Q. And was that statement immediately followed up with statements to the effect of we are monitoring his intake but we can't make him drink?
A. Correct. And because when we made those -- when I made those statements what I said was we want to know how much fluid he has taken in for the future execution attempt, but very clearly said we have no way of even knowing if that was a contributing factor to what occurred that day.
Q. At any point in the media reports when

there's a reference to, quote/unquote, prison officials said this or did that or whatever, is that a fair assessment to say if it's an unnamed prison official that's you?
A. I don't know. It would depend on which reference your making.
Q. Let me back up then.
Who were the people who are authorized or who did have any communication with any media members?
A. About Romell Broom?
Q. Correct.
A. I did, the director did.
Q. Did anyone else?
A. No. But we -- I mean there's former -- I mean we know there are former execution team members who are retired who speak to the media.
Q. Would those individuals be described as State prison officials?
A. Former prison officials, yes.
Q. State prison officials.
A. I don't know. I'm not going to speak on something I don't know what you're referring to to know which articles you're talking about.

If you want to lay an article out here, I'll tell if you I'm the one that spoke to them. I'd be glad to.
Q. The main article, and it's unclear exactly who wrote it.
A. If you show me the article I can usually recall which conversation it was. With what media outfit.
Q. The article I'm going to show you, I guess it hasn't been labeled yet. It would be Exhibit 87 are we at?
MR. SWEENEY: If you want to mark it.
Q. I don't need to mark it necessarily. It is this article from the Plain Dealer. If you look at the top of the highlighted information there.
The quote says something to the affect of "State prison officials believe that dehydration --"
A. This is the Peter Krouse. And I spoke with Peter Krouse extensively.
Q. So the State prison officials that he is referring to there would be you.
A. Correct.
Q. Can you read that statement?
A. "State prison officials believe

dehydration and possible past intervenous drug use may have attributed to the difficulty in executing Broom."
Now I can also state that it's an inaccurate portrayal of my discussions with Peter Krouse. Which I can probably in the short month and a half I've been in this job show you a number of times that he has quoted me.
Q. I'm sure the nature of beast I suppose.
A. I am the one who spoke to Peter Krouse.
Q. The way it's described here, that's who he's referring to.
A. I am the one who spoke to Peter Krouse.
Q. There's also statements that I've seen in a couple of media counts that include a direct quote from you to the effect that the execution team members will not work outside the scope of their training or their authority.
Does that ring a bell?
A. I stated that the execution team members work within the scope of their license and their experience. And within the confines of our Department policy.
Q. Would that be an accurate quote from you?

A. Yes.
Q. What's the basis for that assertion?
A. What's the basis for me stating that we follow policy?
Q. No, that's not what I'm asking.
What's the basis for your assertion that the team members will not work and operate outside, and I'll use your terms, "outside the scope of their licensure or their authority."
A. What I have stated is our policy directs what qualifications that the execution team members must have to administer both the IV lines and the lethal drugs and that that is within the scope of their license. Their activities are within the scope of their experience and training and license.
Q. Licensure, so they're fully licensed to do everything that they're doing.
A. Correct. Absolutely. And that was my statement.
Q. Just based on something you said previously you said you think Tracy Carlos' organization filmed the press conference?
A. She was the television pool reporter.
Q. Is that something that DRC typically gets

copies of those press conferences?
A. No. We have -- no, we watch them on the Internet like everybody else.
MR. BOHNERT: I think at this point I am, unless something else comes up in Mr. Porter's questioning, I have no further questions.
- - -
FURTHER EXAMINATION
BY MR. PORTER:
Q. Just have a couple questions.
I got confused at one point. You said you heard about Romell's statements regarding drug usage and the denying drug usage. Who did you hear that from?
A. Ed Voorhies.
Q. And when did you have that conversation with him?
A. I think he mentioned it while the preparatory stage was going on when we first spoke in the vestibule. Which like what time it was, I don't know that.
Q. When you spoke in the vestibule that was after they had tried to insert an IV in him?
A. Yes.

Q. And at that point you were having a conversation with him with respect to why the procedure wasn't going as planned?
A. I think he came out to let me know what the delay was. Yes.
Q. He came out on his own or you asked him?
A. I did not ask him. I don't know why he came out.
Q. Did he appear to have, from just your observations, any other reason for going outside speaking to you at that point in time?
A. I don't know that.
Q. Pardon?
A. Do I think he had another reason to come out?
Q. Yeah, from your observations; talk to anybody else? Doing anything.
A. No.
Q. You mentioned when Adele initially appeared the first time somebody said they're bringing Adele? Is that your statement?
A. Yeah, I think there's a staff person who stands right there at the door who unlocks the doors. I don't think he called her "Adele." I they he said

the inmate's attorney is coming. Because he has to unlock the doors.
Q. He was making that statement to you or to somebody else?
A. I think to Larry and I that were standing there.
Q. And then Adele announced to you that she wanted to speak to her --
A. That's not what she said. She said I need to know what my client wants.
Q. And your response was "he's cooperating"?
A. Yes. She was very agitated. I said that in the vein of attempting to -- because she hadn't seen anything that happened. She said that before she even viewed the screen.
Q. How did you see that as cooperating as being responsive to her question?
A. Again I was attempting to -- she was extremely agitated, had not seen the screen, had no idea what was going on. Because she had not even seen him on the screen at that point. So I was explaining to her that he was cooperating attempting to alleviate her agitation.
I guess in my mind I was relaying to her

I mean we didn't hear him yelling, screaming, there was none of that behavior going on.
Q. Okay.
A. I didn't know he had requested her because that was not obvious on the screen.
Q. Because from your viewing of the monitor how much do they show? Were they showing of Mr. Broom?
A. His body. Him. But you can't hear him. Unless he's loud. And he wasn't loud.
Q. Was it his entire body, his arms?
A. His entire body.
Q. In response to one of the Mr. Sweeney's questions you distinguished between preparatory procedure and the actual execution itself.
A. Yes.
Q. Did you make that distinction on your own or did someone else tell you to make that distinction?
A. No one told me to make that distinction.
Q. You've never heard that distinction prior to --
A. Have I ever heard that distinction? I mean I know that when we talk with the media in

advance of any execution, the three I've been involved with, we let them know what they're going to see.
Part of our job is to prepare media witnesses who never viewed this for what they can expect.
So we walk them through what they're going to expect to see and we even in that we say when the screens come on you're going to see the preparation process begin and then we go through and even state he's going to take 17 steps down to the execution chamber. That's when the execution process starts.
So we go through that with them. We tell them what to expect in terms of the three drugs being administered, what they will actually visually see.
We've had media be disturbed by what they've seen so we try to prepare them.
Q. Obviously you had to learn this.
A. Yes.
Q. Did someone give you that script so you know what to say?
A. There isn't a script. I can read our policy. My past job was several years in reading and

explaining policy to people outside our agency and inside our agency. I can read our policy and explain what it says.
And in addition, as I had stated earlier, I spent a day going through the rehearsal so I -- with the execution team, so I knew in generalities what was going to occur that day.
I also worked with Larry Green on the process. We have a media video that's out available to the public and actually on YouTube, it explains our execution process. So all of those things are consistent with the description we give to the media in advance.
Q. Who makes the issue of -- one last question. Who raised the issue of dehydration initially; was that the media or you?
A. Who raised the issue? Again, we -- what I was asked was what steps are you taking to prepare for the next execution. And that's where we said the things that we're doing right now are monitoring his fluid intake, those kind of things.
Q. Who told you they were monitoring the fluid intake, the liquids?
A. I believe probably my knowledge of that

came from Ed Voorhies.
MR. PORTER: That's all we have.
MR. SWEENEY: Just one follow-up.
- - -
FURTHER EXAMINATION
BY MR. SWEENEY:
Q. Have you ever actually witnessed an execution?
A. Yes. Just like I said, this was my third one.
Q. Do you actually stay in the witness room and see the whole thing?
A. Yes.
Q. You don't step out to avoid having to see it?
A. No.
Q. So you were there to the bitter end, so to speak.
A. Yes, I'm there to the conclusion of the execution.
Q. Have you observed any difficulties with any of the executions you've witnessed other than Mr. Broom's?
A. No.

Q. Let me just show you this. This is from page 355. Would you mind turning to page 355 of that binder?
A. This?
Q. Yeah, that binder.
A. Okay.
Q. This is a memo of some sort, looks like Attorney General memo to the Attorney General from some of the Assistants. Have you ever seen this before today?
A. No.
Q. Direct your attention to the area where there's redacting tape. See that?
A. Yes.
Q. There's a reference there to Retired Detective Gary Bellimini also witnessing but not necessary to talk to the Attorney General. Do you see that?
A. Yes.
Q. Does that refresh your recollection?
A. I have never even heard that name before. I have no knowledge of that issue.
Q. Are you aware of the fact that the Attorney General always calls the victim's family

members before the execution occurs?
A. I don't know that.
Q. That's not something you're aware of?
A. No. I mean I'm not involved with what the Attorney General's Office does with relation to execution. I work with the executive branch, which is NDRC.
Q. That's right. Thank you for that reminder. So that's the -- what branch are they?
A. They're the executive branch but I work under a different elected official.
Q. You have a different agency you're involved in. You work for which elected official?
A. The Governor. I fall under the Governor. The AG is a different elected official.
MR. SWEENEY: No further questions.
MR. BOHNERT: I'm good.
MR. WILLE: I have no questions.
(Signature waived.)
(Deposition concluded at 5:00 p.m.)
- - -

CERTIFICATE

State of Ohio :
: SS:
County of Franklin :

I, Julieanna Hennebert, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named Julie Walburn was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotypy in the presence of said witness, afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified and completed without adjournment.

I certify that I am not a relative, employee, or attorney of any of the parties hereto, or of any attorney or counsel employed by the parties, or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal office at Columbus, Ohio, on this 10th day of October, 2009.

____
Julieanna Hennebert, Registered Professional Reporter, and Notary Public in and for the State of Ohio.

My commission expires February 19, 2013.
(JUL-1471)
- - -

CERTIFICATE

State of Ohio :
: SS:
County of Franklin :

I, Julieanna Hennebert, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named Julie Walburn was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotypy in the presence of said witness, afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified and completed without adjournment.

I certify that I am not a relative, employee, or attorney of any of the parties hereto, or of any attorney or counsel employed by the parties, or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal office at Columbus, Ohio, on this 10th day of October, 2009.

Julieanna Hennebert, Registered Professional Reporter, and Notary Public in and for the State of Ohio.

My commission expires February 19, 2013.

(JUL-1471)

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